Approved State Service Management Office (SSMO)

Instrument of Appointment – SES and Equiv Specialist

*This Instrument may only be used to appoint a person in an office which has been determined by to be of a senior executive or equivalent specialist nature and classified at a SES or SES equivalent level.*

*If special provisions are required for a particular instrument, the State Service Management Office and the Office of the Crown Solicitor must be contacted.*

# INSTRUMENT OF APPOINTMENT

I, [*full name*] [*delegate title*] being and as [the delegate of - *if there has been a delegation under section 31(2) of the Act – ensure correct delegate makes appointment)* ] the Premier of Tasmania, on behalf of the Crown in right of the State of Tasmania (“the Employer”) hereby appoint [insert name] of [insert address] (“the Officer”) under section 31 of the *State Service Act 2000* (“the Act”) to the office of [insert title of office] Senior Executive Level….[insert level] (or equivalent specialist if applicable) in the Department of [insert name of the Agency] (“the Office”) in the State Service, and to undertake and perform such duties as may be assigned to the Officer as hereinafter provided, for the period, upon the salary, benefits and allowances and subject to the terms and conditions specified in this instrument of appointment.

1. The appointment is for a period of [five – or change timeframe as required] years commencing on ……… …………….. 20[xx].
2. The Officer will undertake and satisfactorily perform the duties of the Office and of any other office to which the Officer is transferred pursuant to section 33 of the Act or which may from time to time be assigned to the Officer by the Premier or by the Head of the Agency in which the Officer is from time to time employed (“the Officer’s Duties”) and will be subject to the direction of and accountable to that Head of Agency.
3. Where the Officer is transferred to or is required to temporarily undertake and perform the duties of another Office which Office attracts a higher level of remuneration than that which is specified in this instrument, the Officer will receive that higher level of salary for the period during which the Officer undertakes and performs those duties. Where the Officer is required to temporarily undertake and perform duties which attract a lower level of salary than that which is specified in this instrument, the Officer will continue to receive the salary specified in this instrument.
4. The Officer will receive the salary and be subject to the superannuation provisions set out in Schedule 1.
5. The Officer will be entitled to the allowances and benefits set out in Schedule 2.
6. The Officer will abide by the conditions set out in Schedule 3.
7. The Premier may offer a consecutive appointment in accordance with the provisions set out in Schedule 4.
8. The appointment may be terminated by the Premier or the Officer in accordance with provisions set out in Schedule 5.
9. The Officer may be entitled to a severance benefit subject to the provisions set out in Schedule 6.

DATED at HOBART this day of 202x

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Signed** by[name]  [Delegate Title]  [Agency]  as delegate of the Premier (or Premier, if not delegated)  in the presence of: |  |  |  | ← |
| Signature |  |
|  | ← | |  |  |
| Signature of witness |  | |  |  |
| Name of witness (print) |  | |  |  |
| Address of witness |  | |  |
| Occupation |  | |  |

I accept appointment to the Office of [XXXX] Senior Executive Service level [XXX – or equivalent specialist], of [Agency], upon the terms and subject to the conditions set out in this instrument.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Signed** by  [full name of officer]  in the presence of: |  |  |  | ← |
| Signature |  |
|  | ← | |  |  |
| Signature of witness |  | |  |  |
| Name of witness (print) |  | |  |  |
| Address of witness |  | |  |
| Occupation |  | |  |

**Schedule 1**

1. Salary will commence at the rate of $[nnn,nnn] per annum and will be subject to any increase determined by the Premier to apply to the Office. (**N*ote 1*** *To comply with Employment Direction No. 17 of 2023, the salary amount to be provided for in this clause for all initial appointments must not exceed the base salary point being the lowest level of the salary range unless otherwise approved by the Head of the State Service. For consecutive appointments the salary amount to be provided for in this clause must not exceed the Officer’s relevant salary progression point at the time of consecutive appointment.)*

***(Delete above and insert the following if a part-time appointment)***

Salary will commence at $[nn.nn] per hour) and will be subject to any increase determined by the Premier to apply to the Office. (*see note 1 above*)

1. Pursuant to and subject to Employment Direction No. 17 of 2023 or any Direction issued in replacement thereof, the Officer may be entitled to move Salary Progression Points in the Senior Executive and Equivalent Specialist Salary Progression Structure. Performance Management Plan assessments for salary progression will occur no earlier than 12 months after the date of this appointment or *[from (date)]* with future assessments to occur no earlier than each 12 months thereafter. **(Note 2** *In certain exceptional circumstances, the salary progression date may be earlier than the 12 month anniversary of appointment. Refer to SSMO if required and Delete whichever does not apply).* The Head of Agency will assess performance against the Performance Management Plan for the Officer with due regard to the relevant performance provisions detailed in Employment Direction No. 17 of 2023 or any Direction issued in replacement thereof. **(Note 3** *this entire clause should be removed for equivalent specialist appointments that do not have a specific senior executive level equivalent unless a salary progression component has specifically been defined and approved)*
2. The Officer is also entitled to the benefit of employer-funded superannuation payments made in accordance with Part II – Salaries and Related Matters, Clause 4 Superannuation, of the Tasmanian State Service Award as if the Officer were an employee under that Award.

*Or (see note 3 below)*

The Officer will be entitled to *[insert relevant amount or percentage]* employer-funded superannuation payments and payments made in accordance with Part II – Salaries and Related Matters, Clause 4 Superannuation, Subclause (d) Additional Superannuation Contributions, of the Tasmanian State Service Award as if the Officer were an employee under that Award.

4. Subject to clause 4.2 of Schedule 2, salary may be sacrificed by the Officer in accordance with Employment Direction No. 17 of 2023 or any Direction issued in replacement thereof for the purpose of novated leasing of a motor vehicle.

5. If requested by the Officer, additional superannuation contributions, payable by equal fortnightly instalments, will be paid by the Employer out of the Officer's salary as provided in Clause 1 of this Schedule.

6. Additional superannuation contributions may be varied annually, on the written advice of the Officer, on the anniversary date of the Officer’s appointment or on another date agreed between the Officer and the Employer.

The additional superannuation contributions will be paid to the RBF Contributory Scheme, or the Tasmanian Ambulance Service Superannuation Scheme or the Fire Commission Service Superannuation Scheme  if the officer is an eligible member of that Scheme or to a superannuation fund, nominated by the Officer, which complies with the *Superannuation Industry (Supervision) Act 1993* of the Commonwealthand which accepts payment by way of electronic funds transfer.

***Note 3*** *The second clause is only to be used when the Officer was, immediately before this appointment, a State Service Officer or employee receiving an employer-funded superannuation entitlement greater than that currently provided for by legislation or an officer that was originally appointed with an entitlement to employer-funded superannuation at a rate in excess of the current legislative requirements and that entitlement has been maintained in subsequent consecutive appointments). Otherwise it is to be deleted.*

**Schedule 2**

**1. RELOCATION EXPENSES**

1.1 Within the limits established under the provisions of Part 3 of the *State Service Regulations 2021* and any Employment Direction issued for that purpose, the Officer will be entitled to reimbursement of the reasonable relocation expenses actually incurred by the Officer and approved by the Head of Agency in taking up this appointment.

1.2 Relocation expenses include economy class air travel for the Officer, the Officer’s spouse and dependants if relocating from interstate.

1.3 Within the limits established under the provisions of Part 3 of the *State Service Regulations 2021* and any Employment Direction issued for that purpose, the Officer is entitled to reimbursement of any fees, charges and taxes necessarily incurred in the sale of the Officer’s existing residence and the purchase of a new residence occasioned by the change in the Officer’s place of residence in order to take up the appointment.

1.4 If the place of work of the Officer is moved necessitating the relocation of the officer’s principal residence from one locality to another the provisions of this clause shall also apply to that relocation.

**2. SPECIAL ACCOMMODATION ALLOWANCE**

2.1 If the Officer is entitled to relocation expenses in accordance with Clause 1 of this Schedule then a special accommodation allowance is payable in accordance with the provisions of this clause.

2.2 Reasonable actual costs up to but not exceeding the arrangements referred to in Part 3 of the *State Service Regulations 2021* and any Employment Direction issued for that purpose, will be available for a period of twelve weeks or until the Officer takes up the Officer’s principal place of residence whichever occurs first.

2.3 This benefit will be available from one week prior to the date upon which the Officer commences duty or is required to relocate *his/her* principal residence.

**2A.** In lieu, either wholly or in part, of the entitlements under clauses 1 and 2 of this Schedule, the Officer may, subject to the approval of the Head of Agency, elect to receive reimbursement for expenditure associated with the relocation but not specified in the *State Service Regulations 2021* on the basis that the liability of the Employer for reimbursement under clauses 1, 2 and 2A of this Schedule will not exceed the total of the Officers’ entitlements under clauses 1 and 2 of this Schedule.

(***Note 4*** *Clause 2A is only to be included in the initial instrument of appointment for Officers appointed from another State or Territory of Australia.)*

**3. EXPENSES INCURRED ON OFFICIAL BUSINESS**

Subject to such conditions as may be approved from time to time, the Officer will be entitled to reimbursement for the actual cost of all reasonable expenses incurred on official business, and as a consequence of travelling on official business intrastate, interstate or overseas.

**4. MOTOR VEHICLE**

4.1 Subject to and in accordance with Employment Direction No. 17 of 2023 or any Direction issued in replacement thereof, the Officer will be entitled to official and private use of a fully maintained motor vehicle with private number plates of a type and subject to such conditions as may be approved by the Government from time to time.

4.2 Subject to eligibility in accordance with Employment Direction No. 17 of 2023 or any Direction issued in replacement thereof and an offer being made by the Head of Agency of an annual allowance in lieu of the provision of a fully maintained private plated motor vehicle, the Officer may elect to receive an annual allowance in lieu of the provision of a motor vehicle.

**5. LEAVE PROVISIONS**

5.1 The Officer will be entitled to personal leave of 20 working days per year of service which leave shall accrue on commencement of this appointment and annually thereafter. Such leave, if unused, may be accumulated during this and any consecutive appointment to a maximum entitlement capped at 260 working days. This entitlement will apply to a part-time appointment pro rata.

5.2 Any personal leave not exceeding in aggregate 260 working days to which the Officer was entitled as a permanent employee in the State Service immediately before this appointment is to be credited to the Officer’s accumulated personal leave. This entitlement will apply to a part time appointment *pro rata*.

5.3 Where the Officer was, immediately prior to the Officer’s initial appointment as an Officer, a permanent employee in the State Service and was entitled to personal leave in accordance with an award, the Officer may elect to continue to be eligible for such personal leave entitlements during the term of the appointment and any consecutive appointment and will also retain any accrued or existing entitlement to personal leave immediately prior to the Officer being appointed as an Officer

5.4 The Officer may in each year calculated from the first day of the Officer’s employment in any capacity in the State Service use up to 20 days of the Officer’s personal leave to care for members of the Officer’s immediate family or household who are sick and who require care and support or who require care due to an unexpected emergency. The Officer may, with the approval of the Head of Agency, use, for the same purposes, an additional amount of personal leave over the 20 day limit imposed by this clause.

5.5 The definition of, and the notification and evidence requirements for personal leave shall be in accordance with the provisions of Part VIII, Clause 3(a), (j), (l) and (m) of the Tasmanian State Service Award as varied from time to time and shall apply as if the Officer were an employee under that Award.

5.6 The Officer is entitled to family violence leave in accordance with the relevant provisions in the Tasmanian State Service Award as amended from time to time as if the Officer were an employee under that Award.

5.7 The Officer will be entitled to recreation leave accruing at the rate of 20 working days per year for each completed year of service. This entitlement will apply to a part-time appointment pro rata.

5.8 Where the Officer was, immediately prior to the Officer’s initial appointment as an Officer, a permanent employee in the State Service and was entitled to recreation leave in accordance with an award, the Officer will retain the accrued entitlement to recreation leave immediately prior to the Officer being appointed as an Officer.

5.9 The Officer and the Head of Agency may agree for the Officer to cash out a particular amount of their accrued recreation leave in accordance with the provisions of Part VIII, Clause 5(l), subclauses (ii) to (iv), of the Tasmanian State Service Award as if the Officer were an employee under that Award.

5.10 Personal leave taken during a period of recreation leave will not be counted as recreation leave if the Officer provides a medical certificate from a registered health practitioner.

5.11 Unless inconsistent with clause 5.7, the Officer will be entitled to recreation leave pro rata for any incomplete year of service arising from or caused by the expiration or termination of this appointment.

5.12 The Officer may observe such public holidays as are observed generally in the State Service in accordance with the Holidays with Pay provisions in the Tasmanian State Service Award as amended from time to time as if the Officer were an employee under that Award.

5.13 The Officer may be entitled to Day Worker - Christmas Close Down Days consistent with Clause 10 of the Public Sector Union Wages Agreement 2022 as if the officer were an employee under that Agreement as amended from time to time.

5.14 Long Service Leave entitlements will accrue in accordance with the Long Service Leave (State Employees) Act 1994.

5.15 An officer whose employment is terminated in accordance with Schedule 5, or where the term of this instrument of appointment expires and there is no consecutive appointment, will be paid any accrued entitlements of recreation leave and long service leave.

5.16 The Officer is entitled to parental leave, compassionate and bereavement leave, grandparent leave, foster and kinship care leave, surrogacy leave, Aboriginal Cultural Leave, disability leave and gender affirmation leave in accordance with the relevant provisions in the Tasmanian State Service Award as amended from time to time as if the Officer were an employee under that Award.

5.17 An officer who is absent on recreation leave who becomes entitled to compassionate or bereavement leave during that period of recreation leave may be credited with an amount of recreation leave equal to the number of working days of compassionate or bereavement leave approved and taken during that period of recreation leave.

5.18 The Head of Agency to whom the Officer is responsible may grant such other leave (paid or unpaid) as the Head of Agency may reasonably determine.

5.19 Any periods of absence without pay of more than twenty working days in aggregate in any year of this appointment will not count as service for the purpose of calculating the Officer’s personal and recreation leave entitlements.

**Schedule 3**

**1. HOURS OF WORK**

The Officer will work such hours as are reasonably required by the Head of the Agency to satisfactorily perform the duties and responsibilities of the Office.

**Or insert below where this is a part-time appointment – less than 36.75 hours per week.**

The officer will work [specify no. of hours] per week. and worked on *(specify pattern of work per week ie Monday – Friday, 3 hours per day, 9.00am – 12.00pm).* Additional hours may at times be required to satisfactorily perform the duties and responsibilities of the Office.

**2. OUTSIDE WORK**

The Officer will not without the permission of the Head of Agency hold any position of profit or engage in any activity for reward outside the duties of the Office to which the Officer is appointed by this instrument.

**3. INTELLECTUAL PROPERTY**

The Officer will not disclose or use for personal advantage or for the advantage of any other person or entity any information gained during and in consequence of the Officer’s appointment to this Office except as required for the purposes of this appointment or by law. This provision will continue to apply to the Officer following the termination of this appointment until such time as the information has been released by or with the approval of the Crown into the public domain.

**4. PERFORMANCE ASSESSMENT**

This appointment is subject to ongoing satisfactory performance assessments in accordance with Employment Direction No. 17 of 2023 or any Direction issued in replacement thereof. A Performance Management Plan will be developed for the Officer with that plan to document the performance requirements and development needs for the Officer to be assessed and reviewed annually for salary progression in accordance with clause 2 in Schedule 1 of this Instrument.

**5. SUSPENSION**

5.1 The Head of Agency may suspend the Officer from duty with pay if:

(a) the Head of Agency considers it is:

* 1. in the public interest or;
  2. the Agency’s interest,

and

(b) there are reasonable grounds to believe that the Officer:

(i) has or may have breached the Code of Conduct; or

(ii) has or may be charged with an offence punishable by imprisonment for a term exceeding 6 months, or has or may be charged outside Tasmania with an offence which would, were it committed in Tasmania, be an offence punishable by imprisonment for a term exceeding 6 months; or

(iii) the Officer is unable to efficiently and effectively perform the duties assigned to the Officer.

**Schedule 4**

**Consecutive Appointment**

1. At least three but not more than six months prior to the expiry of the term of the appointment, the Officer is to be notified in writing by the Employer:

(a) of an offer of a consecutive appointment to the Office or to another Office; or

(b) that an offer of a consecutive appointment to the Office or to another Office will not be made.

1. Should the Officer be notified in accordance with clause 1(a) of an offer of a consecutive appointment, the Officer:

(a) is to be also notified of the terms of that offer by means of a draft instrument of appointment; and

(b) must, within 21 days of the date on which such notification is given, advise the Employer in writing whether or not the Officer accepts that offer.

1. Should the Officer be notified in accordance with clause 1(a) of this Schedule of an offer of a consecutive appointment that overall comprises less salary, allowances or benefits than those specified in this instrument or should the term of the appointment not be at least 60% of the term of the appointment specified in this instrument, and should the Officer not accept that offer, the Officer will, on the expiration of the term of this appointment, be entitled to receive the applicable severance benefit subject to and in accordance with Clause 1 of Schedule 6.
2. Should the Officer be notified in accordance with clause 1(b) of this Schedule that an offer of a consecutive appointment will not be made, the Officer will, on the expiration of the term of the Appointment, be entitled to receive the applicable severance benefit subject to and in accordance with Clause 1 of Schedule 6.
3. Where an Officer is not offered a consecutive appointment and that Officer is not entitled to make the election provided for by s 31(11) of the Act, the Head of Agency may determine that the Officer is entitled to a payment in lieu of all or part of the notification period provided for in clause 1 of this schedule up to a maximum period of three months.

**Schedule 5**

**Termination**

**Termination for Cause**

1. The Premier may terminate the Appointment at any time without notice if the Officer is found to have engaged in serious and wilful misconduct or if the Officer has abandoned the appointment.
2. The Premier may terminate the Appointment by giving notice of termination in writing or payment in lieu of such notice if:
3. It is determined:

(i) in accordance with the process established for employees under section 48 of the *State Service Act 2000* that the Officer is unable to effectively and efficiently perform the Officer’s Duties; or

(ii) that the Officer has breached the Code of Conduct contained in the *State Service Act 2000* in circumstances in which a sanction of termination could or would be likely to be imposed for that breach; or

(iii) the Officer has not maintained a satisfactory standard of performance in accordance with the requirements of clause 4 of Schedule 3 of this instrument.

1. It is necessary or desirable to do so having regard to the operational requirements of the Employer.
2. The Officer may terminate this appointment at any time by giving 14 days (or such shorter period as the Premier may accept) written notice.

**Notice Arrangements**

1. Where the appointment is terminated by the Premier upon the giving of notice, the period of such notice is to be calculated in accordance with the following:

|  |  |  |
| --- | --- | --- |
| (a) | Period of Service | Period of Notice |
|  | From commencement and up to the completion of 3 years | 2 weeks |
|  | 3 years and up to the completion of 5 years | 3 weeks |
|  | 5 years and over | 4 weeks |
| (b) | In addition to the period of notice specified in clause 4(i) an officer aged 45 years or older and who has 2 or more completed years of service is entitled to an additional week’s notice. | |

**Schedule 6**

**Severance benefits**

1. In the event that the Appointment is terminated by the Premier prior to the expiry of the term of the appointment, or that an offer of a consecutive appointment is not made in accordance with the provisions of Schedule 4, the Employer will pay the applicable severance benefit in accordance with clause 3 of this Schedule. Payment of the severance benefit will only be made after receipt from the Officer of a signed deed of release in a form prepared by Crown Law whereby in consideration of payment of the severance benefit and any other accrued entitlements the Officer releases the Crown from any claim or liability arising out of the Officer’s appointment (excluding any workers’ compensation or like claim).
2. Notwithstanding anything contained in clause 1 of this Schedule the Officer is not entitled to a severance benefit as provided in Clause 3 of this Schedule if:
   1. the Appointment is terminated for any of the causes specified in Clause 1 or 2(a) of Schedule 5; or
   2. the Officer terminates the Appointment in accordance with Clause 3 of Schedule 5; or
   3. the Officer does not accept an offer of a consecutive appointment that overall comprises salary, allowances and benefits equal to those specified in this instrument and a term which is not less than 60% of the term of the appointment specified in this instrument.
3. For the purposes of this clause, the expression ‘salary calculated at the relevant SES salary rate’ means the approved rate of salary being paid to the Officer at the time of the termination of the Appointment (not including an allowance paid in lieu of a motor vehicle in respect of which the Officer has made an election under clause 4.2 of Schedule 2):

(a) Where the Officer was a permanent employee in the State Service immediately before accepting appointment as an Officer, but does not make the election provided by s 31(11) of the Act the Officer will receive a payment based on the greater of the following:

(i) One week’s salary calculated at the relevant SES salary rate for every six whole weeks of the unexpired term of this appointment as at the date of termination of this appointment together with an amount equivalent to one week of the employer-funded superannuation contribution provided for in Clause 3 of Schedule 1 for each six whole weeks of the unexpired term of this appointment as at the date of termination of this appointment;

or

(ii) A payment of four week’s salary plus two week’s salary for every completed year of continuous service as a State Service employee or Officer including pro rata for the final year of service up to a maximum of 48 weeks. The payment is to be calculated using the relevant SES salary rate.

(b) Where the Officer was a permanent employee in the State Service immediately before accepting this appointment and makes the election provided by s 31(11) of the Act the Officer will receive a payment based on the greater of the following:

(i) For every six whole weeks of the unexpired term of this appointment as at the date of the termination of this appointment, a sum equal to the difference between the weekly salary calculated at the relevant SES salary rate and the weekly salary payable to the Officer immediately upon the Officer being reappointed as a permanent employee in the State Service;

or

(ii) A salary maintenance allowance being the difference between the salary payable to the Officer immediately upon being reappointed and the relevant SES salary rate from the date of re-appointment as a permanent employee according to the number of continuous years of service as an Officer as follows:

* + Up to 5 years: 3 months
  + 5 years to 10 years: 6 months
  + Greater than 10 years: 9 months

(c) Where the Officer was not a permanent employee in the State Service immediately before accepting this appointment the Officer will receive a payment based on the greater of the following:

(i) One week’s salary calculated at the relevant SES salary rate for every six whole weeks of the unexpired term of this appointment as at the date of the termination of this appointment together with an amount equivalent to one week of the employer-funded superannuation contribution provided for in Clause 3 of Schedule 1 for each six whole weeks of the unexpired term of the Appointment as at the date of termination of the Appointment;

or

(ii) A payment of four week’s salary plus two week’s salary for every completed year of continuous service in the State Service including pro rata for the final year of service up to a maximum of 48 weeks. The payment is to be calculated using the relevant SES salary rate.

1. The Officer may be eligible for superannuation benefits payable on severance in accordance with any relevant provisions of the *Retirement Benefits Act 1993*, the *Public Sector Superannuation Reform Act 2016,* the Retirement Benefits Fund Tasmanian Accumulation Scheme Trust Deed or (if applicable) relevant arrangements governing another superannuation fund of which he/she is a member.